

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

LAREY DOUGLAS BROWN, #1683629	§	
VS.	§	CIVIL ACTION NO. 6:12cv853
DOUGLAS E. LOWE, ET AL.	§	

ORDER OF DISMISSAL

Plaintiff Larey Douglas Brown, an inmate confined in the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed this lawsuit pursuant to 42 U.S.C. § 1983. He argued that the Defendants engaged in a conspiracy to falsely convict him. The complaint was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that complaint is barred by *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit. It is specifically noted that the Plaintiff asked for the opportunity to amend his complaint in order to seek relief that would not include overturning his conviction. In *Heck*, however, the Supreme Court held that a civil rights lawsuit is barred if “a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence.” 512 U.S. at 487. The Plaintiff’s lawsuit, if successful, would imply the invalidity of his sentence. He may not

proceed with a civil rights lawsuit concerning his conviction because he has not demonstrated that his conviction or sentence has been invalidated. *Id.* Consequently, the lawsuit is barred by *Heck*. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1) and the Plaintiff's claims are **DISMISSED** with prejudice to their being asserted again until the *Heck* conditions are met. All motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 1st day of February, 2013.

A handwritten signature in black ink, appearing to read 'Leonard Davis', is written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE